



S/N 09/934,443

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Joseph I. Landman, et al.	Examiner:	Unknown
Serial No.:	09/934,443	Group Art Unit:	2121
Filed:	August 20, 2001	Docket:	499.714US1
Title:	TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A MULTIPROCESSOR ENVIRONMENT		

PETITION UNDER 37 C.F.R. 1.47(a)

RECEIVED

MAY 20 2002

BOX DAC
Commissioner for Patents
Washington, D.C. 20231

OFFICE OF PETITIONS

Pursuant to 37 C.F.R. 1.47(a) and 35 U.S.C. 116, second paragraph, Applicants submit this Petition seeking permission to file the above-identified application (hereinafter "the application") without the signature of the following omitted inventor who has failed to execute the application:

Joseph I. Landman

Last known address: 2433 Woodmont East, Canton, Michigan 48188

As set forth in more detail below, Applicants' legal representatives have made *bona fide* and diligent attempt to present the application and corresponding declaration to the omitted inventor for signature. The below-signed attorney, Joseph P. Mehrle, is a patent attorney employed by the firm of Schwegman, Lundberg, Woessner & Kluth, and representing Silicon Graphics, Inc. ("SGI"), which is an assignee and owner of the application by assignment from co-inventors Haruna Nakamura, Roberto Gomperts, and Dmitri Mikhailov. Joseph Landman, is presently not employed by SGI, but Mr. Landman was employed by SGI at the time the invention was made, and under was under an employment obligation to cooperate in the preparation of the application and to assign the application to SGI.

Applicants include the petition fee of \$130.00 as set forth under 37 CFR 1.17(h). However, if additional fees or credits should be required, please charge or credit Deposit Account No. 19-0743 in the appropriate amount.

Applicants also include a Declaration of William K. Rue Under 37 CFR 1.47(a). Mr. Rue is believed to be the person having first-hand knowledge of the details as set forth in this Petition pertaining to the most recent attempts at obtaining the signature of inventor Joseph

Landman. Applicants believe that the Petition and the Rue declaration constitute acceptable proof as to the inventor's lack of response, and show that reasonable efforts were attempted.

Pertinent Facts Regarding Omitted Inventor's Lack of Response

The non-signing inventor, Mr. Landman, was hired to invent by SGI, the assignee of the application. The application relates to a technology on which the non-signing inventor worked while being employed by SGI.

The application was filed on August 20, 2001, without all the required formal documents.

As part of regular office procedures when formal documents are not filed with a patent application, a Combined Declaration/Power of Attorney and Assignment is prepared upon receipt of a serial number from the U.S. Patent and Trademark Office. The filed application, the drawings, and a letter with attached formal papers for signature were sent via Federal Express to inventor Joseph I. Landman on November 6, 2001 (Exhibit 1). Again on December 15, 2001, a reminder letter (without any attached documents) were sent via Federal Express to inventor Joseph I. Landman (Exhibit 2). Finally, on February 20, 2002, the filed application, the drawings, and a letter with attached formal papers for signature were sent via Federal Express to inventor Joseph I. Landman (Exhibit 3).

The undersigned received a forwarded electronic mail ("email") message (Exhibit 4) on November 16, 2001 from Joseph I. Landman indicating that he needed more time to review the application. The email message indicated that Mr. Landman had properly received the application, the drawings, and letter with attached formal papers for signature, which was sent via Federal Express on November 6, 2001. The undersigned received a phone call from a Mr. William F. Kolakowski, a personal patent attorney hired by Mr. Landman to represent Mr. Landman in the present application. Mr. Kolakowski is with the law firm of Dykema Gossett, located at 39577 Woodward Ave., Suite 300, Bloomfield Hills, Michigan 48304-2820, phone (248) 203-0822. Mr. Kolakowski indicated that Mr. Landman would not sign the formal papers for the application as filed. Moreover, Mr. Landman had conducted a search and was to submit the references to the undersigned, which Mr. Landman believed pertinent to the application.

Title: TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A MULTIPROCESSOR ENVIRONMENT

The references were received by the undersigned along with a letter of correspondence dated March 11, 2002 (Exhibit 5). The received references are being submitted separately as an IDS for consideration by the Examiner in the present application. A few subsequent phone conferences were held between the undersigned and Mr. Kolakowski, during which no agreement was reached for Mr. Landman to sign the formal papers.

Applicants submit that the foregoing facts, as supported and supplemented by the attached Declaration of William K. Rue, establish a *bona fide* and diligent attempt to comply with the provisions of Rule 1.47, and accordingly requests that Applicants' Petition be granted. Moreover, a copy of the previous filed declaration of Roberto Gomperts is provided as Exhibit 6, pursuant to MPEP 409.03(a), and the declarations of Haruna Nakamura and Dmitri Mikhailov are provided as well, with Mr. Landman's signature left blank. Accordingly, each joint inventor has signed on their own behalf as well as on behalf of Mr. Landman, pursuant to 409.03(a).

Respectfully submitted,

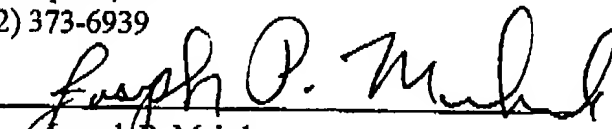
JOSEPH I. LANDMAN, ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6939

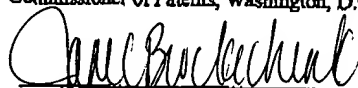
Date 4-10-02

By


Joseph P. Mehrle
Reg. No. 45,535

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 10 day of April, 2002.

Jane E. Brockschink
Name


Signature



SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

November 6, 2001

Joseph I. Landman
2433 Woodmont East
Canton MI 48188

COPY

Re: Docket # 499.714US1 - **Ref. No.: 1172.00**
U.S. Patent Application Serial Number: 09/934,443
Title: TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A
MULTIPROCESSOR ENVIRONMENT

Dear Mr. Landman:

Enclosed is a Combined Declaration and Power of Attorney document that must be executed to complete the filing requirements for the above-referenced patent application. Please review the enclosed copy of the application as filed and then sign and date the document where indicated.

We have also enclosed an Assignment document to be executed by you. Please note that you must sign and date the Assignment document in the presence of a Notary Public.

If the inventor information is incorrect on either of the above-mentioned documents, please manually correct the errors and initial all changes.

Please return the original set of executed documents to my attention **by November 16, 2001**. The first due date for filing these documents with the PTO is **November 21, 2001**. If the documents are not submitted by this date, an extension fee will be required in order to proceed with this matter. The November 21, 2001 is extendable up to five months. If you have any questions regarding this matter, please contact Charles A. Lemaire at (612) 373-6949.

Very truly yours,

William K. Rue
Case Management Assistant

Enclosures

EXHIBIT 1

RECEIVED

MAY 20 2002

OFFICE OF PETITIONS

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

December 15, 2001

Mr. Joseph I. Landman
2433 Woodmont East
Canton, MI 48188

COPY

Re: Docket # 499.714US1 - Ref. No.: 1172.00
U.S. Patent Application Serial Number: 09/934,443
Title: TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A
MULTIPROCESSOR ENVIRONMENT

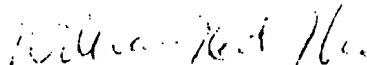
Dear Mr. Landman:

Please be reminded that a Combined Declaration and Power of Attorney document must be executed to complete the filing requirements for the above-referenced patent application. The document was sent to you on November 6, 2001. We have also sent you an Assignment document to be executed. Please review the copy of the application as filed and then sign and date the documents where indicated.

If the inventor information is incorrect on either of the above-mentioned documents, please manually correct the errors and initial all changes.

Please return the original set of executed documents to my attention **as quickly as possible**. The first due date for filing these documents with the PTO was **November 21, 2001**. Because the documents were not submitted by this date, an extension fee will be required in order to proceed with this matter. The November 21, 2001 is extendable up to five months. If you have any questions regarding this matter, please contact Charles A. Lemaire at (612) 373-6949.

Very truly yours,



William K. Rue
Case Management Assistant

Enclosures

cc: Jeannette Schreckenghaust

EXHIBIT 2

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

February 20, 2002

Joseph I. Landman
2433 Woodmont East
Canton, MI 48188

COPY

Re: Docket # 499.714US1 - SGI Ref. No.: 1172.00
U.S. Patent Application Serial Number: 09/934,443
Title: TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A
MULTIPROCESSOR ENVIRONMENT

Dear Mr. Landman:

Please be reminded that a Combined Declaration and Power of Attorney document must be executed to complete the filing requirements for the above-referenced patent application. Please review the enclosed copy of the application as filed and then sign and date the document where indicated.

We have also enclosed an Assignment document to be executed by you.

If the inventor information is incorrect on either of the above-mentioned documents, please manually correct the errors and initial all changes.

Please return the original set of executed documents to my attention **by March 15, 2002**. The first due date for filing these documents with the PTO was **November 21, 2001**. Because the documents were not submitted by this date, an extension fee will be required in order to proceed with this matter. The November 21, 2001 is extendable up to five months. If you have any questions regarding this matter, please contact Charles A. Lemaire at (612) 373-6949.

Very truly yours,



William K. Rue
Case Management Assistant

Enclosures

cc: Jeannette Schreckenghaust (w/enc.)

EXHIBIT 3

Small, Precise, & High Technology

Intellectual Property Attorneys

1600 TCF Tower, 121 South Eighth Street, Minneapolis, Minnesota 55402
Telephone: 612-373-6900 Fax: 612-339-3061 Website: www.slwk.com

Jane Brockschink

From: Joseph Mehrle
Sent: Tuesday, April 09, 2002 12:26 PM
To: Jane Brockschink
Subject: FW: 499.714US1 Looking for Joseph Landman

COPY

-----Original Message-----

From: William Rue
Sent: Friday, November 16, 2001 1:26 PM
To: Patricia Hultman; Joseph Mehrle
Cc: Schwegman et al. Message Center
Subject: 499.714US1 Looking for Joseph Landman

-----Original Message-----

From: Jeannette Schreckenghaust [mailto:jschreck@sgi.com]
Sent: Friday, November 16, 2001 12:21 PM
To: 'wrue@slwk.com'
Subject: FW: Urgetn - Looking for Joseph Landman

-----Original Message-----

From: Joe Landman [mailto:landman@mediaone.net]
Sent: Friday, November 16, 2001 10:14 AM
To: Haruna Cofer
Cc: Jeannette Schreckenghaust; Roberto Gomperts
Subject: Re: Urgetn - Looking for Joseph Landman

All:

I am conversing with MSC legal and personal counsel about the documentation. Unfortunately insufficient time for review was given. The earliest I will be able to take any action of any sort will be some time after thanksgiving.

Joe

On Fri, 16 Nov 2001, Haruna Cofer wrote:

> Hi Jeannette,
>
> I am copying Joe on this message. Otherwise I believe his home phone
> number is 734-398-5773.
>
> -- Haruna
>
> Jeannette Schreckenghaust wrote:
> >
> > Hi,

EXHIBIT 4

> >
> > We are trying to locate Joseph Landman to get some paperwork signed
> > related to a patent application which you are all named inventors. SGI
> > Docket 1172.00 TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A
> > MULTIPROCESSOR ENVIRONMENT. Our law firm has been unsuccessful in
> > contacting Mr. Landman and we are up against a deadline. Do either of
> > you have any idea of an address, phone number or email to contact him?
> > Thank you for your help.

> >
> > Jeannette

> > -----
> > -----

> > Jeannette Schreckenghaust
> > SGI - Silicon Graphics, Inc.
> > Sr. Patent Paralegal
> > Tel: (650) 933-3019
> > Fax: (650) 932-0652

>
>

--
Joe Landman,
landman@mediaone.net

COPY

EXHIBIT 4

LAW OFFICES
DYKEMA GOSSETT
PROFESSIONAL LIMITED LIABILITY COMPANY

39577 WOODWARD AVENUE, SUITE 300
BLOOMFIELD HILLS, MICHIGAN 48304-2820

TELEPHONE (248) 203-0700
FACSIMILE (248) 203-0763
WWW.DYKEMA.COM

ANN ARBOR, MICHIGAN
BLOOMFIELD HILLS, MICHIGAN
CHICAGO, ILLINOIS

GRAND RAPIDS, MICHIGAN
LANSING, MICHIGAN
WASHINGTON, D.C.

COPY

WILLIAM F. KOLAKOWSKI

DIRECT DIAL: (248) 203-0822
E-MAIL: WKOLAKOWSKI@DYKEMA.COM

March 11, 2002

OVERNIGHT COURIER/MAIL

Joseph Mehrle, Esq.
Schwegman, Lundberg, Woessner & Kluth
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

Re: U.S. PATENT APPLICATION SERIAL NO. 09/934,443 FOR
"TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A
MULTIPROCESSOR ENVIRONMENT"
YOUR REF. No.: 499.714US1
OUR FILE No.: 83,630-001

Dear Joe:

In accordance with our conversation, enclosed please find various references and related materials that Mr. Landman believes may be material to the patentability of the claims in the above-identified application. These materials include:

1. A cover memorandum from Mr. Landman detailing various references and work he believes may be material to the patentability of the claims;
2. A CD-ROM containing software entitled MSC.Nastran Version 70.7.2 along with a "Configuration and Operations Guide." Mr. Landman believes that this software was offered for sale as early as 1998.
3. A website printout entitled "XML for Molecular Biology as compiled by Paul Gordon" relating to the use of XML in bioinformatics.
4. Several references relevant to distributed or scalable computing with bioinformatics applications:
 - (a) a website printout regarding Modular Bioinformatics Distributed Computing Kernel (MoBiDiCK) (2 pages)
 - (b) a white paper entitled "High-Throughput BLAST" dated September 1998

EXHIBIT 5



Joseph Mehrle, Esq.
March 11, 2002
Page 2

COPY

(eight pages)

(c) a website printout entitled "SGI and Incyte Deploy Linux Solution for Bioinformatics at Bristol-Myers Squibb" dated November 21, 2000 (two pages) along with various website printouts regarding Incyte (ten pages);

(d) a website article entitled "Linux Farms for Mommies" dated March 10, 2000 (two pages)

5. Several references relevant to generalized distributed computing, by subdividing tasks, running on machines, and recombining the results:

(a) a website printout regarding the work of distributed.net (four pages)

(b) a website printout regarding the work of SETI@home (two pages)

6. Several references relevant to the use of a markup language (e.g., XML) for creating an information taxonomy:

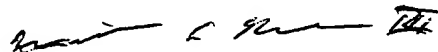
(a) a website printout regarding Bioinformatic Sequence Markup Language (BSML) (two pages)

(b) a website printout regarding BIOpolymer Markup Language (BIOML) (two pages).

I look forward to hearing from you.

Sincerely,

DYKEMA GOSSETT PLLC



William F. Kolakowski III

Enclosure

cc: Joseph Landman (w/o encl.)
::ODMA\PCDOCS\BH01\333329\1

EXHIBIT 5

COPY

Attorney Docket No.499.714US1

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

United States Patent Application
COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A MULTIPROCESSOR ENVIRONMENT

The specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

No such claim for priority is being made at this time.

COPY

Attorney Docket No. 4957 (4/01)
 Serial No. not assigned
 Filing Date: not assigned

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Isaack, John L.	Reg. No. 36,154	Nelson, Albin J.	Reg. No. 28,650
Arora, Sumedh	Reg. No. 42,267	Harris, Robert J.	Reg. No. 37,346	Nicholson, Lea A.	Reg. No. P-48,146
Beckman, Marvin L.	Reg. No. 38,377	Hill, Stanley K.	Reg. No. 37,548	Nielsen, Walter W.	Reg. No. 25,539
Bianchi, Timothy E.	Reg. No. 39,610	Jackson Huchach, Katharine A.	Reg. No. 47,670	Pedys, Danny J.	Reg. No. 15,635
Billion, Richard E.	Reg. No. 32,836	Jurkovich, Paul J.	Reg. No. 44,813	Parker, J. Kevin	Reg. No. 33,024
Black, David W.	Reg. No. 42,331	Kalis, Jamal M.	Reg. No. 37,650	Perdot, Monique M.	Reg. No. 42,989
Brennan, Leonides M.	Reg. No. 35,832	Klima-Silberg, Catherine I.	Reg. No. 40,032	Peret, Andrew R.	Reg. No. 41,246
Brennan, Thomas F.	Reg. No. 35,075	Kluth, Daniel J.	Reg. No. 32,146	Peterson, David C.	Reg. No. 47,857
Brooks, Edward J., III	Reg. No. 40,925	Lacy, Rodney L.	Reg. No. 41,136	Prout, William H.	Reg. No. 33,995
Chadwick, Robin A.	Reg. No. 36,477	Lemire, Charles A.	Reg. No. 36,108	Schmitt, Sherry W.	Reg. No. 39,422
Clark, Barbara J.	Reg. No. 58,107	LetMoine, Dana B.	Reg. No. 40,062	Schwegman, Michael L.	Reg. No. 25,816
Clist, Timothy B.	Reg. No. 60,957	Lundberg, Steven W.	Reg. No. 30,568	Scott, John C.	Reg. No. 38,613
Crismon, Douglas J.	Reg. No. 39,951	Maki, Peter C.	Reg. No. 42,832	Smith, Michael G.	Reg. No. 45,368
Dahl, John M.	Reg. No. 44,639	Malen, Peter L.	Reg. No. 44,594	Speier, Gary J.	Reg. No. 45,458
Drake, Eduardo F.	Reg. No. 40,594	Mates, Robert E.	Reg. No. 35,271	Steffey, Charles E.	Reg. No. 25,179
Embreuson, Janet E.	Reg. No. 39,665	McCrackin, Ann M.	Reg. No. 42,858	Studel, Lelf T.	Reg. No. 46,251
Forrest, Bradley A.	Reg. No. 30,837	McTavish, Hugh E.	Reg. No. P-48,341	Terry, Kathleen R.	Reg. No. 31,884
Gannon, Owen J.	Reg. No. 36,143	Mehrl, Joseph P.	Reg. No. 45,535	Tong, Viel V.	Reg. No. 45,416
Gorrie, Gregory J.	Reg. No. 36,530	Morre, Charles L., Jr.	Reg. No. 33,742	Vikings, Ann S.	Reg. No. 37,748
Gurtych, Joseph E.	Reg. No. 41,791	Muller, Mark V.	Reg. No. 37,509	Woessner, Warren D.	Reg. No. 30,440
Greaves, John N.	Reg. No. 40,362	Nana, Kash	Reg. No. 44,255		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:
 P.O. Box 2938, Minneapolis, MN 55402
 Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1: Joseph I. Landman
 Citizenship: United States of America Residence: Canton, MI
 Post Office Address: 2433 Woodmont East
Canton, MI 48186

Signature: _____ Date: _____
Joseph I. Landman

Full Name of joint inventor number 2: Haruna Nakamura Cofer
 Citizenship: United States of America Residence: Columbus, OH
 Post Office Address: 715 Affirmed Court
Columbus, OH 43230

Signature: _____ Date: _____
Haruna Nakamura Cofer

X Additional inventors are being named on separately numbered sheets, attached hereto.

COPY
Agency Report No.: 499 714US1
Serial No. not assigned
Filing Date: not assigned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 3: Roberto Gomperts

Citizenship: United States of America

Residence: Pepperell, MA

Post Office Address: 193 Elm Street
Pepperell, MA 01463-1604

Signature: _____

Roberto Gomperts

Date: _____

August 20, 2001

Full Name of joint inventor number 4: Dmitri Mikhailov

Citizenship: Russian Federation

Residence: Newton, MA

Post Office Address: 305G Winchester Street
Newton, MA 02461

Signature: _____

Dmitri Mikhailov

Date: _____

August 20, 2001

Full Name of inventor:

Citizenship:

Residence:

Post Office Address:

Signature: _____

Date: _____

Full Name of inventor:

Citizenship:

Residence:

Post Office Address:

Signature: _____

Date: _____

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

August 20, 2001

Then personally appeared the above named Roberto Gomperts and Dmitri Mikhailov and acknowledged the foregoing instrument to be their free act and deed before me

Susan Giannetti
Susan Giannetti, Notary Public

My commission expires: 1/10/2008

COPY
Attorney Work Product No.: 499.714US1
Serial No. not assigned
Filing Date: not assigned

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

COPY

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

United States Patent Application
COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **TRANSPARENT DISTRIBUTION AND EXECUTION OF DATA IN A MULTIPROCESSOR ENVIRONMENT**

The specification of which was filed on August 20, 2001 as application serial no. 09/934,443.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

No such claim for priority is being made at this time.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Greaves, John N.	Reg. No. 40,362	Nama, Kash	Reg. No. 44,255
Arora, Suneel	Reg. No. 42,267	Haack, John L.	Reg. No. 36,154	Nelson, Albin J.	Reg. No. 28,650
Beekman, Marvin L.	Reg. No. 38,377	Harris, Robert J.	Reg. No. 37,346	Nicholson, Lea A.	Reg. No. 48,346
Bianchi, Timothy E.	Reg. No. 39,610	Hill, Stanley K.	Reg. No. 37,548	Nielsen, Walter W.	Reg. No. 25,539
Billion, Richard E.	Reg. No. 32,836	Jackson Huebsch, Katharine A.	Reg. No. 47,670	Padys, Danny J.	Reg. No. 35,635
Black, David W.	Reg. No. 42,331	Jurkovich, Patti J.	Reg. No. 44,813	Parker, J. Kevin	Reg. No. 33,024
Brennan, Leoniede M.	Reg. No. 35,832	Kalis, Janal M.	Reg. No. 37,650	Perdok, Monique M.	Reg. No. 42,989
Brennan, Thomas F.	Reg. No. 35,075	Klima-Silberg, Catherine I.	Reg. No. 40,052	Peret, Andrew R.	Reg. No. 41,246
Brooks, Edward J., III	Reg. No. 40,925	Kluth, Daniel J.	Reg. No. 32,146	Peterson, David C.	Reg. No. 47,857
Chadwick, Robin A.	Reg. No. 36,477	Lacy, Rodney L.	Reg. No. 41,136	Prout, William F.	Reg. No. 33,995
Clark, Barbara J.	Reg. No. 38,107	Lemaire, Charles A.	Reg. No. 36,198	Schumm, Sherry W.	Reg. No. 39,422
Clise, Timothy B.	Reg. No. 40,957	LeMoine, Dana B.	Reg. No. 40,062	Schwegman, Micheal L.	Reg. No. 25,816
Cochran, David R.	Reg. No. 46,632	Lundberg, Steven W.	Reg. No. 30,568	Scott, John C.	Reg. No. 38,613
Crisman, Douglas J.	Reg. No. 39,951	Maki, Peter C.	Reg. No. 42,832	Smith, Michael G.	Reg. No. 45,368
Dahl, John M.	Reg. No. 44,639	Malen, Peter L.	Reg. No. 44,894	Speier, Gary J.	Reg. No. 45,458
Drake, Eduardo E.	Reg. No. 40,594	Mates, Robert E.	Reg. No. 35,271	Steffey, Charles E.	Reg. No. 25,179
Embretson, Janet E.	Reg. No. 39,665	McCrackin, Ann M.	Reg. No. 42,858	Stordal, Leif T.	Reg. No. 46,251
Forrest, Bradley A.	Reg. No. 30,837	McTavish, Hugh E.	Reg. No. 48,341	Terry, Kathleen R.	Reg. No. 31,884
Gamon, Owen J.	Reg. No. 36,143	Mehrle, Joseph P.	Reg. No. 45,535	Tong, Viet V.	Reg. No. 45,416
Gorrie, Gregory J.	Reg. No. 36,530	Moore, Charles L., Jr.	Reg. No. 33,742	Viksins, Ann S.	Reg. No. 37,748
Gortych, Joseph E.	Reg. No. 41,791	Muller, Mark V.	Reg. No. 37,509	Woessner, Warren D.	Reg. No. 30,440

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:

P.O. Box 2938, Minneapolis, MN 55402

Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Residence: **Columbus, OH**

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Columbus, OH 43230**

Signature: _____

Haruna Nakamura Cofer

Date: _____

November 7, 2001

Hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Signature: _____

Date: _____

Dmitri Mikhailov

Full Name of inventor:

Citizenship:

Residence:

Post Office Address:

Signature: _____

Date: _____

Full Name of inventor:

Citizenship:

Residence:

Post Office Address:

Signature: _____

Date: _____

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.